

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 08 NOV 2004

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Applicant's or agent's file reference 114586	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. <b>PCT/AU2003/000906</b>	International Filing Date (day/month/year) 11 July 2003	Priority Date (day/month/year) 15 July 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> B65D 53/04, 51/14, 41/04, B21D 51/46, B29C 70/68, B29L 31:56		
Applicant CLOSURES AND PACKAGING SERVICES (UK) LIMITED et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

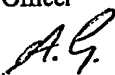
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☒ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 3 February 2004	Date of completion of the report 27 October 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>ADRIANO GIACOBETTI</b> Telephone No. (02) 6283 2579

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/000906

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty; inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 2, 3, 5-32	YES
	Claims 1, 4	NO
Inventive step (IS)	Claims 3, 5-32	YES
	Claims 1, 2, 4	NO
Industrial applicability (IA)	Claims 1-32	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**Cited Prior Art Documents

(D1) EP 915028 A2	(D2) EP 073334 B1
(D3) US 4997097 A	(D4) US 4685580 A
(D5) US 5782369 A	(D6) US 6082569 A
(D7) US 4230028 A	(D8) US 3959061 A
(D9) US 4728239 A	

Documents (D7) to (D9) merely provide state of the art information in relation to the invention as defined in the claims 18 to 32.

NOVELTY(N): Claims 1, 4 (NO)

The invention of claim 1 is a method of forming a closure for application to a container. The method comprises the steps of (a) providing a closure having a top panel and a skirt depending from the top panel; (b) providing a disc in a position ready for insertion within the closure; and (c) pressing the disc relatively into the said closure such that at least a portion of the disc is positioned at least adjacent the top panel.

The documents (D1) to (D4) each a closure having a top panel and a skirt depending from the top panel. Each closure is provided with a sealing liner, or sealing disc or barrier disc adjacent the top panel. In document (D1) it discloses the step of press fitting the liner (24) into the closure to engage with a bead (22), document (D2) has a sealing liner (24) disposed generally adjacent the top wall and retained by a retention lip (30), document (D3) has a sealing disc (11) which is positioned adjacent a top panel, while document (D4) has liner (28) which is pressed into the closure and retained by a bead (18). It is considered that the steps of the method of the invention are explicitly or implicitly disclosed in these documents (D1) to (D4). Therefore the invention as defined in claims 1 and 4 is not novel.

NOVELTY(N): Claims 2, 3, 5-32 (YES)

None of individual prior art documents above disclose all the features of the inventions defined in these claims. In particular, the method of pressing a disc into the closure by applying a fluid pressure to the disc such that the entire disc is forced into a position adjacent a top panel of the closure is not disclosed or fairly taught in these documents. Therefore the invention of these claims is considered to be novel.

(Continued on Supplemental Sheet)

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/000906

**VI. Certain documents cited****1. Certain published documents (Rule 70.10)**

Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date ( valid claim) (day/month/year)
US 2003/0057175	27 March 2003	21 September 2001	21 September 2001

The essential features of the invention as claimed in claims 1, 2 and 4 is not novel in light of this document.

**2. Non-written disclosures (Rule 70.9)**

Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)
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**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claims 2 and 18 lack clarity as there is no prior reference for the phrase "the finish".
2. Claim 18 further lacks clarity as there is no prior reference for the phrase "the disc positioning process".

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**Continuation of Box V****INVENTIVE STEP(IS): Claims 1, 2, 4 (NO)**

Claims 1, 4: As commented above.

## Claim 2:

The added feature of claim 2 is an annular sealing fin extending inwardly and downwardly from the interior of the closure which is adapted to engage a rim of a container and be folded into a sealing arrangement with the rim.

Documents (D5) and (D6) disclose the features of an annular sealing fin that folds into a sealing arrangement with a rim of a container. The positions of these fins are similar to the positions of the retaining beads and lip of the documents (D1) to (D4). Therefore it is considered that the combination of the disclosure of documents (D5) and (D6) with documents (D1) to (D4), as would be obvious to a person skilled in the art, discloses the features of the invention of claim 2. Consequently the invention of claim 2 does not involve an inventive step over these documents.

Alternatively, the provision of foldable sealing fin positioned in the interior of a closure to engage with a rim of container is well known in the art. Therefore, such an arrangement is considered to be a mere a workshop improvement which any competent worker in the art would have been expected to make and would be well within the general knowledge of any such appropriately skilled person. Hence, the invention of claim 2 does not involve an inventive step.

**INVENTIVE STEP(IS): Claims 3, 5-32 (YES)**

As commented above with regard to novelty the method of forming the closure, and associated apparatus, in these claims is also considered to involve an inventive step over the above documents.

**INDUSTRIAL APPLICABILITY(IA): Claims 1-32 (YES)**

The invention as defined in claims 1 to 32 is considered to meet the requirements of industrial applicability because the method of forming a closure, and associated apparatus, can be made or used in industry.

**Note:**

With regard to the document(s) listed in Box VI under "certain documents cited", these are documents published prior to the international filing date but later than the priority date claimed but which would otherwise be considered to be of particular relevance.

Under the PCT, novelty is considered only in respect of documents published before the priority date. The relevance of a document published after the priority date is dependent upon national law. Such documents are excluded from consideration in preliminary examination, under the PCT Guidelines but have been included here for information.